

Attorney's Docket No. 7330

Application No. 10/808,942

Page 6

**REMARKS**

Entry of the foregoing and reconsideration of the application identified in the above caption, pursuant to and consistent with 37 C.F.R. §1.116 and in light of the remarks which follow, are respectfully requested.

By the above amendments, claim 24 has been amended to recite that the asphalt coating layer "consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive". Support for this amendment can be found in the instant specification at least from page 5, line 27 to page 6, line 12. Entry of the above amendments is proper at least because they are effective to place the application in condition for allowance or in better form for appeal. See M.P.E.P. §714.12.

In the Official Action, claims 10, 13, 14, 24, 25, 30 and 31 stand rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 3,140,220 (*Walter*) in view of U.S. Patent Application Publication No. 2001/0030018 (*Weinstein et al*) and U.S. Patent Application Publication No. 2004/0166087 (*Gembala*). Claims 23 and 27 stand rejected under 35 U.S.C. §103(a) as being obvious over *Walter*, *Weinstein et al* and *Gembala*, and further in view of U.S. Patent No. 2,496,566 (*Szwarc*). Claim 28 stands rejected under 35 U.S.C. §103(a) as being obvious over *Walter*, *Weinstein et al* and *Gembala*, and further in view of U.S. Patent No. 6,331,350 (*Taylor et al*). Withdrawal of these rejections is respectfully requested for at least the following reasons.

Independent claim 24 is directed to a faced insulation assembly, comprising: a glass fiber insulation blanket having a first major surface and a second major surface that are each defined by the length and width of the glass fiber insulation blanket, wherein the glass fiber insulation blanket has lateral edges extending along the length of the glass fiber insulation blanket; a facing formed from a kraft paper sheet material having an outer major surface and

Attorney's Docket No. 7330Application No. 10/808,942

Page 7

an inner major surface, the facing further having lateral edge portions, the lateral edge portions being adjacent to the lateral edges of the glass fiber insulation blanket; and an asphalt coating layer on the inner major surface of the facing that bonds the facing to the first major surface of the glass fiber insulation blanket, wherein the asphalt coating layer does not extend to the lateral edges of the glass fiber insulation blanket such that the lateral edge portions of the facing are not bonded to the first major surface of the glass fiber insulation blanket by the asphalt coating layer, and wherein the asphalt coating layer consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive of at least one essential plant oil in an amount sufficient to substantially eliminate odor that would otherwise be emitted by the asphalt coating layer without adversely affecting the adherent qualities of the asphalt coating layer.

*Walter* discloses a thermal insulation having a body made of insulating material bonded to a sheet liner by an interfacial adhesive, such as asphalt, such that edge bands extend along the length of the sheet liner. FIG. 1 and col. 2, lines 31-43. The edge bands are not bonded to the insulating material and may be used to attach the thermal insulation to framing members. FIGS. 2-3 and col. 2, lines 50-59.

*Walter* does not disclose or suggest each feature recited in independent claim 24. For example, *Walter* does not disclose or suggest **an asphalt coating layer that consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive of at least one essential plant oil**, as recited in claim 24. In this regard, the Patent Office has acknowledged that *Walter* fails to disclose or suggest the use of an odor-reducing additive in an asphalt layer. Official Action at page 3.

*Weinstein et al* fails to cure the above-described deficiencies of *Walter*. The Patent Office has relied on *Weinstein et al* for disclosing facing sheets or liners formed from Kraft

Attorney's Docket No. 7330Application No. 10/808,942

Page 8

paper or foil-scrim-Kraft paper laminates. Official Action at page 3. However, like *Walter*, *Weinstein et al* fails to disclose or suggest an asphalt coating layer that consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive of at least one essential plant oil, as recited in claim 24.

*Gembala* also fails to cure the above-described deficiencies of *Walter*. In this regard, *Gembala* discloses the addition of a scented agent and a holding or complexing agent to asphalt or coal-tar. Page 1, paragraphs [0005] and [0006]. *Gembala* teaches that the scented agent emits a fragrance, and the holding or complexing agent chemically reacts or hydrogen bonds with odor components present in the asphalt or coal-tar. Page 1, paragraphs [0006] and [0007]. Thus, *Gembala* teaches the use of both the scented agent and the holding or complexing agent to effectively reduce and mask the odor of the asphalt composition. Page 1, paragraphs [0006] and [0007].

In the "Response to Arguments" section at page 8 of the Official Action, the Examiner has taken the following position:

Applicant's claim requires the asphalt coating layer to "comprise" an odor-reducing additive "consisting essentially of at least one essential plant oil." *Gembala* teaches adding an odor-reducing additive that "consists of" at least one essential plant oil and adds another additive but still teaches the claimed limitation because "comprising" leaves the coating open to more additives besides the claimed odor-reducing additive.

Without addressing the propriety of the Examiner's comments, and in an effort to expedite prosecution of the present application, independent claim 24 has been amended to recite that the asphalt coating layer consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive of at least one essential plant oil. In view of such amendment, it is apparent that the holding or complexing agent employed by *Gembala* has been excluded from the recited asphalt coating layer.

Attorney's Docket No. 7330Application No. 10/808,942

Page 9

As discussed above, *Gembala* employs two distinct components having different odor-mitigating functions: (1) the scented agent and (2) the holding or complexing agent. The asphalt formulas disclosed in Tables I and II of *Gembala* employ both the scented agent and the holding or complexing agent. Quite clearly, *Gembala* teaches the combined use of the scented agent and the holding or complexing agent in the asphalt composition, and stresses the importance of the function of each component used in conjunction with one another. *Gembala* simply has no disclosure or suggestion of employing the scented agent apart from the holding or complexing agent.

Furthermore, it is noted that claim 24 recites that the asphalt coating layer consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive of at least one essential plant oil in an amount sufficient to substantially eliminate odor that would otherwise be emitted by the asphalt coating layer without adversely affecting the adherent qualities of the asphalt coating layer. By comparison, *Gembala* teaches that both the scented agent and the holding or complexing agent are employed to effectively reduce and mask the odor of the asphalt composition. Page 1, paragraphs [0006] and [0007]. There is no recognition or suggestion that the scented agent of *Gembala* used apart from the holding/complexing agent, or the holding/complexing agent used apart from the scented agent, would have been effective to substantially eliminate odor that would otherwise be emitted by the asphalt.

Quite clearly, *Gembala* fails to disclose or suggest the aspects of the recited asphalt coating layer discussed above.

*Szwarc* and *Taylor et al* fail to cure the above-described deficiencies of *Walter*, *Weinstein et al* and *Gembala*. In this regard, the Patent Office has relied on *Szwarc* for disclosing an asphalt that is rendered fungi growth resistant by adding a growth inhibiting

Attorney's Docket No. 7330Application No. 10/808,942

Page 10

agent. Official Action at pages 6-7. *Taylor et al* has been relied on for disclosing the use of a formaldehyde free binder used in glass fiber insulation that is an acrylic thermosetting binder. Official Action at page 7-8. However, like the other applied art, *Szwarc* and *Taylor et al* do not disclose or suggest an asphalt coating layer that consists essentially of an asphalt or a blend of asphalts, and an odor-reducing additive of at least one essential plant oil in an amount sufficient to substantially eliminate odor that would otherwise be emitted by the asphalt coating layer without adversely affecting the adherent qualities of the asphalt coating layer, as recited in claim 24.

For at least the above reasons, it is apparent that no *prima facie* case of obviousness exists. Accordingly, withdrawal of the above §103(a) rejections is respectfully requested.

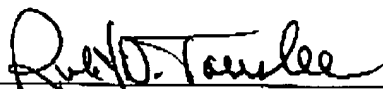
From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

JOHNS MANVILLE

Date: April 21, 2008

By:



Robert D. Touslee

Registration No. 34,032

P.O. Box 625005  
Littleton, CO 80162  
(303) 978-3927